

REMARKS

The present amendment is responsive to the Official Action mailed June 22, 2010. A petition for a two-month extension of the term for response to said Official Action, to and including November 22, 2010, is transmitted herewith.

Claims 7-9 and 19-23 are pending, with claims 7 and 19 being independent. Claims 7 and 19 have been amended, and claims 22-23 have been added herein. No new matter is presented by these amendments.

In view of the above amendments and following remarks, reconsideration of the Examiner's rejections is respectfully requested.

I. CLAIM REJECTIONS - 35 U.S.C. § 112

In the Official Action, the Examiner rejected claims 19-21 under 35 U.S.C. § 112, contending that the claimed recitation "particularly the proximal femur" in claim 19 renders the claims indefinite. Claim 19 has been amended herein to delete the objected-to recitation, and thus it is believed that the rejection of claims 19-21 has been overcome.

II. CLAIM REJECTIONS - 35 U.S.C. § 102

In the Official Action, the Examiner rejected claims 7-8 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,374,270 to McGuire *et al.* ("McGuire").

McGuire discloses a drill bit 11 for inserting a guide pin 12 into tissue. The drill bit 11 includes a longitudinal cannula 17 for receiving the guide pin 12. Once the guide pin 12 is received in the cannula 17 of the drill bit 11, the drill bit 11 and guide pin 12 are locked together. In this regard, the shank 14 of the drill bit 11 includes one or more longitudinal slots 16 that permit the shank 14 to compress inwardly to grip the guide pin 12 when the drill bit 11 is secured in a drill chuck. (See *McGuire* col.3 ll.25-34.) In one

embodiment, the distal tip 72 of the guide pin 12 may be shaped to engage the tip 15 of the drill bit 11 (as shown in FIGS. 6-7) to prevent the pin 12 from moving axially into the drill bit 11 towards the drill. (See *id.* col.4 ll.26-34.) After the bit-guide combination is drilled into the tissue, the drill bit 11 is then removed from the guide pin 12, leaving the guide pin 12 embedded in the tissue. (See *id.* col.4 ll.52-53.)

In contrast to currently amended independent claim 7, the contended "axial bore" (cannula 17) of the contended "rotatable boring tool" (drill bit 11) of *McGuire* fails to be "adapted to permit said guide wire to slide axially through said bore when said tool is connected to said power source and while said tool is boring into bone," as recited in the claim. (Emphasis added.) Instead, as taught by *McGuire* and as discussed above, the drill bit 11 (contended "rotatable boring tool") is structured so that, when the drill bit 11 is connected to a drill chuck and boring into bone, the shank 14 compresses inwardly to grip the guide pin 12 (contended "guide wire"). Thus, as intended by *McGuire* (so that the guide pin 12 can be driven into the bone), the compression of the shank 14 against the guide pin 12 (contended "guide wire") prevents the "guide wire" from sliding axially through the "bore" (cannula 17).

Additionally, when the shank 14 of the drill bit 11 of *McGuire* is inserted into a drill chuck and the chuck is tightened, the slots 16 will close up and the slots 16 will also be covered by the chuck. Therefore, when the drill bit 11 is connected to the drill chuck and is boring into bone, the guide pin 12 will not be visible through the slots 16. Thus, in contrast to currently amended claim 7, the contended "elongated opening" (slot 16) of *McGuire* is not "adapted to permit viewing of axial sliding movement of said guide wire trailing end during rotation of said boring tool while said tool is connected to

said power source and said tool is boring into bone." (Emphasis added.)

Since *McGuire* fails to meet all of the features of currently amended independent claim 7, it is respectfully requested that the rejection of claim 7 be withdrawn. Due at least to the dependency of claim 8 from independent claim 7, it is respectfully requested that the rejection of claim 8 also be withdrawn.

III. CLAIM REJECTIONS - 35 U.S.C. § 103

In the Official Action, dependent claim 9 was rejected under 35 U.S.C. § 103(a) as being obvious over *McGuire*. However, due at least to the dependency of claim 9 from independent claim 7, which was argued above to distinguish over *McGuire*, the rejection of dependent claim 9 over *McGuire* should likewise be withdrawn.

Claims 19-21 were rejected under 35 U.S.C. § 103(a) as being obvious over *McGuire* in view of U.S. Patent No. 3,216,288 to Gardner ("*Gardner*"). *Gardner* discloses a handheld reamer device having a thumb screw 30 that slides within a longitudinal slot 20 in the casing 12, in order to extend and retract a reamer tool 40 from one end of the casing 12.

The Examiner contended that "*McGuire* discloses the claimed invention except for the shank having a radially outwardly extending slideable lock portion." (Official Action 4.) The Examiner contended that the thumb screw 30 in *Gardner* corresponds to the "slideable lock portion" recited in claim 19, and he asserted that it would have been obvious to modify *McGuire* to include the contended "slideable lock portion" of *Gardner*.

The Examiner is incorrect that it would have been obvious to incorporate the thumb screw 30 of *Gardner* into the drill bit 11 of *McGuire*. *McGuire*'s drill bit 11 is connected to a power tool and is rotated at high speed, while *Gardner*'s

tool 10 is a handheld device that does not involve any rotation. Clearly *McGuire's* drill bit 11 is not a handheld tool like *Gardner's*. Thus, the devices disclosed in *McGuire* and *Gardner* are not analogous, and a person having ordinary skill in the art would not have found it obvious to include a hand-manipulated component like *Gardner's* thumb screw 30 into the drill bit 11 of *McGuire*.

Moreover, the purpose of *Gardner's* thumb screw 30 is to be moved by a user's hand in order to extend the reamer tool 40 from one end of the handheld casing 12. However, *McGuire* does not have an extendable structure corresponding to the slidable reamer tool of *Gardner*. Therefore, there would be no reason to include a sliding thumb screw into *McGuire's* drill bit 11, and a person having ordinary skill in the art would not have found that modification to be obvious.

Since *McGuire* and *Gardner* fail to meet all of the features of currently amended independent claim 19, it is respectfully requested that the rejection of claim 19 be withdrawn. Due at least to the dependency of claims 20 and 21 from independent claim 19, it is respectfully requested that the rejection of those dependent claims also be withdrawn.

IV. CONCLUSION

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

Application No.: 10/757,929

Docket No.: TRAUMA 3.0-452

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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